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In re Application of	:	
MENZELL, et al.	:	
Application No.: 10/,581,637	:	
PCT No.: PCT/AU04/01821	:	REQUEST FOR STATUS
Int. Filing Date: 23 December 2004	:	
Priority Date: 08 January 2004	:	UNDER 37 CFR 1.42
Attorney Docket No.: A-10125	:	
For: INHALE EXHAUST DEVICE TO	:	
IMPROVE EFFICIENCY OF A	:	
CATALYTIC CONVERTER	:	

This decision is in response to applicant's declaration filed 30 October 2007 in the United States Patent and Trademark Office (USPTO). The declaration is being treated as a submission of papers pursuant to 37 CFR 1.42. No fee is required.

BACKGROUND

On 23 December 2004, applicant filed international application PCT/AU04/01821 which claimed a priority date of 08 January 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 July 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 July 2006.

On 07 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the requisite basic national fee and an Information Disclosure Statement.

On 20 September 2007, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date. Applicant was afforded two months to file a proper response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 30 October 2007, applicant filed the declaration discussed herein executed by joint inventors Adrian Menzell and John Kostic; and by Glenda Shirley Smith and Ian Murray Smith as co-executors of the estate of deceased inventor Patrick Baker.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The filed declaration is executed by Glenda Shirley Smith and Ian Murray Smith as co-executors of the estate of deceased inventor Patrick Baker. However the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the inventor box of the declaration executed by the executors sets forth the residence, citizenship and post office address for only one individual; presumably the deceased inventor, Patrick Baker. In order to comply with 37 CFR 1.497(b)(2), the declaration must list this information for the legal representative, and, at a minimum, identify the citizenship of the inventor.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice.**

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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